THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.11137 of 2006

Date: 13-6-2006

Between :-

1. Chippagiri Nagendra Prasad,

   S/o. Chippagiri Subrahmanyam

2. Thiruveedhi Ravindranath,

   S/o. T.Seetha Ramaiah .. Petitioners

And

1. Dhone Municipal Nagar Panchayat

   Rep. by its Commissioner ,

   Dhone town, Kurnool Dist.

2. Town Planning Oftficer,

   Dhone Municipal Nagar Panchayat,

   Dhone Town, Kurnool District. .. Respondents

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ORDER:-

Heard the Counsel.

This Court ordered *notice before admission* on 6-6-2006 and Sri Newton, Standing Counsel representing R.1 and R.2 had taken notice and requested time to get instructions. On 6-6-2006 this Court ordered *status quo* as on that day to be maintained for a period of two weeks.

The Writ Petition is filed by the petitioners praying for issuance of an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in giving notices-cum-endorsement proceedings No.ROC.No.930/G1/2006 dated 25-5-2006 without giving due opportunity and enquiry, and without initiating land acquisition proceedings as illegal and unconstitutional and pass such other suitable orders.

It is stated that these writ petitioners are owners of the properties bearing door No.8-85-29 and 8-85-1-6-1 respectively in Kothapeta, Dhone. Several other particulars relating to the purchase of the properties and the other details had been mentioned. It was also stated that in fact previously the writ petitioners had not filed W.P.No.3017/2006 as alleged in the impugned notice-cum-endorsement in ROC.No.930/G1/2006 dated 25-5-2006. It was also stated that the writ petitioners had received notices issued by R.1 and R.2 under Sections 192 to 194 of the Municipalities Act directing them to remove encroachments as alleged in their notices within 7 days.

The respondents had threatened to demolish their shops constructed in their sites as per the registered sale deeds. It was further stated that the respondents without conducting any enquiry and without inspecting the site and without verifying the documents had issued another impugned notice dated 25-5-2006 stating that they had not submitted their documents and they are going to demolish their shops in question within three days. The said action is being questioned on several grounds. Sri Newton had placed the order passed by this Court in W.P.No.3017/2006 wherein this Court in the case of similarly placed persons had disposed of the Writ Petition with certain directions. It is also stated that the present writ petitioners were not shown as writ petitioners though the present writ petitioners also are similarly placed as the writ petitioners in W.P.No.3017/2006. This Court is not inclined to express any opinion relating to the merits or demerits of the matter. In the light of the stand taken by the petitioners that they have been in possession of the property and had not encroached any portion of the road margins, the impugned notice to be treated as show-cause notice calling upon the petitioners to submit their objections for removal of the said encroachments and the petitioners are permitted to file their objections/explanations within two weeks from the date of receipt of a copy of this order producing all the relevant documents, sanctioned plan, title deeds and any other documents which the petitioners deem to be relevant to substantiate their contentions and the respondents to consider and dispose of the same in accordance with law by passing reasoned orders within a period of two weeks thereafter and till then the *status quo* granted by this Court to be maintained. The Writ Petition is disposed of accordingly. No costs.

Justice P.S.Narayana

13th June, 2006

SMR